

Congressman Cuellar's Appropriations Language on Detention Centers

FY 15

1. **Reimbursement language included in the FY2015 Appropriations bill**, Congressman Cuellar worked with Chairman Carter to ensure there was language to address state local governments and law enforcement are eligible for reimbursement due to funds expended to care for UACs.

Report Language: Section 572. A new provision is included making costs of providing humanitarian relief to unaccompanied alien children and to alien adults and their minor children an eligible use for certain Homeland Security grants to Southwest border recipients for fiscal years 2013 and 2014. State and local costs to include the costs of personnel, overtime and travel related to enhancing border security are already eligible expenses under the major Homeland Security grant programs; however, costs associated with the immediate care and transportation of UAC and families that were incurred by state and local jurisdictions would otherwise not be eligible. The influx of UAC and families that came across the Southwest border overwhelmed Federal resources and put a burden on state and local jurisdictions, particularly small counties along the border. This created not only a humanitarian crisis but also a greater vulnerability to terrorism and other security risks to our Nation.

Bill Language: SEC. 572. Notwithstanding any other provision of law, grants awarded to States along the Southwest Border of the United States under sections 2003 or 2004 of the Homeland Security Act of 2002 (6 U.S.C. 604 and 605) using funds provided under the heading "Federal Emergency Management Agency, State and Local Programs" in division F of Public Law 113-76 or division D of Public Law 113-6 may be used by recipients or sub-recipients for costs, or reimbursement of costs, related to providing humanitarian relief to unaccompanied alien children and alien adults accompanied by an alien minor where they are encountered after entering the United States, provided that such costs were incurred during the award period of performance.

2. \$94 million for Alternatives to Detention

FY16

1. Transparency in Family Detention Facilities:

Report Language: With regard to those family units who are detained, the Committee is concerned by reports that ICE has not provided appropriate food, water, and medical care to families, as well as reports about inappropriate and demeaning treatment of detainees by contract guards at such facilities. Within 15 days of enactment, and monthly thereafter, ICE is directed to update the

Committee on family detention oversight activities of the ICE coordinator for family detention policy and the Office of Detention Oversight, including oversight of mechanisms for receiving and resolving complaints and responding to requests for medical care; providing all relevant and required information to detainees related to the removal process and their rights in detention; and for providing appropriate training and oversight for contract detention staff, including oversight related to staff qualifications. These updates shall also include data regarding family units in detention who are removed from the United States directly from detention; detained for longer than 30 days and longer than 60 days; issued a bond that has not been posted; and released on bond, recognizance, and parole, including data on compliance of those released with requirements for immigration court appearances. In addition, the updates should include descriptions and data on requests for medical care and response times; the average and median lengths of stay in family detention; the average, median and range for bond amounts, and improvements made as a result of recommendations by the family detention Advisory Committee or as a result of stakeholder outreach

2. Reimbursement to States for costs of providing humanitarian relief to UACs

Report Language: Notwithstanding any other provision of law, grants awarded to States along the Southwest Border of the United States under sections 2003 or 2004 of the Homeland Security Act of 2002 (6 U.S.C. 604 and 605) using funds provided under the heading ‘Federal Emergency Management Agency, State and Local Programs’ in division F of Public Law 113 76 or division D of Public Law 113–6 may be used by recipients or sub-recipients for costs, or reimbursement of costs, related to providing humanitarian relief to unaccompanied alien children and alien adults accompanied by an alien minor where they are encountered after entering the United States, provided that such costs were incurred between January 1, 2014 and December 31, 2014 or during the award period of performance.

3. Increase funding for Alternatives to Detention. \$11,608,000 above FY16.

\$125,883,000

4. Report on effectiveness of ATD program

“ICE is directed to provide the Committee a statistical analysis for each type of alien supervision (electronic, GPS, and family case management) and category of enrollee (single adult/head of a family unit) to determine the effectiveness of the program with regards to compliance and removal and to better understand what characteristics uniquely support removal outcomes.”

5. Increased funding for Criminal Alien Program. \$19,851,000 above FY16.

\$337,028,000

6. 55 new Immigration Judge Teams.

FY17

1. Disposition Goals – Detained cases by 60 days and non-detained by 365 days.

Report Language: Assuring immigration regulation helps optimize strong enforcement.—The Committee is concerned with the pace of hiring and onboarding Immigration Judges funded in fiscal years 2015 and 2016, and expects the Department to accelerate the recruitment, background investigation and placement of IJ teams to areas that have the highest workload. The Committee is alarmed that despite the increased resources provided to EOIR in fiscal years 2015 and 2016, the median days pending for a detained immigration case is 71 days and the median days pending for a non-detained case is 665 days. While the Committee understands that factors outside the control of Immigration Judges can affect case length, these median case times are unacceptable. The Committee directs EOIR to establish a goal that by the end of the fiscal year 2017 the median days pending of detained cases be no longer than 60 days, and the median length for non-detained cases be no longer than 365 days. To monitor the progress in this effort, the Committee directs EOIR to continue to provide monthly reporting on EOIR performance and IJ hiring as specified in the statement accompanying the fiscal year 2016 Omnibus Appropriation Act.

2. Transparency in ICE Detention Centers:

Report language: “The Committee is concerned by reports of the separation of some family units after apprehension by CBP. ICE is expected to ensure that individuals being transferred from CBP to ICE custody, in ICE custody, or under ICE supervision have opportunities to report family separation incidents and to verify the status, location, and disposition of family members. ICE should also ensure that field officers are appropriately trained on the requirements of ICE’s Parental Interest Directive and on mechanisms to reunite family units.

The Committee has included language under the OIG heading directing updates on its ongoing review of ICE and CBP detention facilities, including unannounced inspections. The Committee notes that ICE is working collaboratively with OCRCL to improve detention facility conditions, standards, inspections, and healthcare services; provide guidance on the use of segregation; improve disability accommodations; and ensure the safety and well-being of

vulnerable populations. The Committee expects ICE to continue working with OCRCL to proactively improve detention facility conditions and oversight.

Within 30 days of the date of enactment of this Act, and semiannually thereafter, ICE shall provide an update on its oversight of family detention facilities, including recommendations for improvements made by the Advisory Committee on Family Residential Centers or as a result of ICE's community liaison initiative.

Within 45 days after the date of enactment of this Act, ICE shall report on its progress in implementing the 2011 Prison Based National Detention Standards (PBNDS) and requirements related to the Prison Rape Elimination Act (PREA), including a list of facilities that are not yet in compliance; a schedule for bringing facilities into compliance; and current year and estimated future year costs associated with compliance. The Committee expects ICE to refrain from entering into new contracts or IGSA's that do not require adherence to the PREA and 2011 PBNDS standards. In addition, the Committee again encourages ICE to consider collaborating with the National PREA Resource Center, which is supported by the Department of Justice, to help facilitate PREA compliance.

House Report 114-215 directed ICE to brief the Committee on its policies and practices for ensuring the safety of vulnerable populations in immigration detention facilities, along with recommendations for further improvements to better protect these detainees. The Committee looks forward to receiving this overdue briefing as soon as possible."

3. Reimbursement for providing humanitarian relief to UACs

Bill language: "SEC. 311. Notwithstanding any other provision of law, grants awarded to States along the Southwest Border of the United States under sections 2003 or 2004 of the Homeland Security Act of 2002 (6 U.S.C. 604 and 605) using funds provided under the heading "Federal Emergency Management Agency, State and Local Programs" in division F of Public Law 113-76 or division D of Public Law 113-6 may be used by recipients or sub-recipients for costs, or reimbursement of costs, related to providing humanitarian relief to unaccompanied alien children and alien adults accompanied by an alien minor where they are encountered after entering the United States, provided that such costs were incurred between January 1, 2014 and December 31, 2014 or during the award period of performance."

4. 10 Additional Immigration Judge Teams

1. *This Act includes \$504,500,000 for the Executive Office for Immigration Review (EOIR), of which \$4,000,000 is derived by transfer from fee collections. With the funding provided in the Act, EOIR shall continue ongoing programs, and hire and deploy at least 100 additional Immigration Judge (IJ) teams, with a goal of fielding 484 IJ teams nationwide by 2019.*

Immigration Adjudication Performance and Reducing Case Backlog. -The Department shall accelerate its recruitment, background investigation, and placement of IJ teams, and brief the Committees not later than 30 days after enactment of this Act on its plan to deploy or reassign IJ teams to the highest priority locations. The briefing shall cover training standards for new IJ s, and continuing IJ training and education. EOIR shall submit monthly reports detailing the status of its hiring and deployment of IJ teams in the format and level of detail provided in fiscal year 2017. The reports should include the performance and operating information at the level of detail provided in fiscal year 2017, to include median days pending for both detained and non-detained cases, and should include statistics on cases where visa overstay is a relevant factor. To the extent EOIR has adopted new performance measures related to the efficient and timely completion of cases and motions, statistics reflecting those measures should be included in the report.

2. *\$125 million for Alternatives to Detention*

FY19

1. *Programmatic Request: “The Committee recommends \$589,500,000 for the Executive Office for Immigration Review (EOIR), of which \$4,000,000 is from immigration examination fees. The recommendation is \$85,000,000 above fiscal year 2018. The recommendation will support a total of 524 Immigration Judge (IJ) teams, 75 more than funding in fiscal year 2018, which provided for 65 additional IJ teams. Funding is provided above the request to annualize costs associated with the new teams funded in fiscal year 2018 and continue enhancements provided in fiscal year 2018 for information technology and facilities. The recommendation sustains the current legal orientation program and related assistance, such as the information desk pilot. The recommendation does not include any funding to establish or fund a legal representation program.*

EOIR Performance. – For several years, the Committee has been concerned with the slow pace of hiring and onboarding Immigration Judges and the unacceptable amount of time it takes to resolve immigration cases. The Committee understands that the Department is working to accelerate the hiring process and is deploying additional resources to those areas with the highest workload such as the Southwest Border. The Committee directs this continue and that the Department coordinate with the Department of Homeland Security (DHS) to develop metrics, practices, and pilot programs to institute rapid court proceedings at holding facilities along the Southwest Border where individuals are detained for immigration violations to ensure their court appearance. The Committee continues its direction from fiscal year 2018 that the Department should

establish a goal that the median days pending of detained cases be no longer than 60 days and the median length for non-detained cases be no longer than 365 days. The Committee directs EOIR to continue to provide monthly reports on performance, IJ hiring and visa overstay as specified in the fiscal year 2018 Appropriations Act.

Minute Orders - The Committee is aware that EOIR is conducting a pilot program to decrease the time Immigration Judges take to render Oral Decisions using Minute Orders that would potentially increase substantially the number of hearings a Judge may hear per day. The current method used for Oral decisions includes a recitation of pertinent Circuit and BIA authority, detailed analysis of all testimony and exhibits, and their respective legal conclusions even for cases that do not present a novel issue. EOIR is encouraged to promptly expand this pilot nationwide. The Committee directs EOIR to report back to Congress on its efforts not later than 90 days after the enactment of this Act.

Preliminary Hearings – The Committee directs EOIR to establish a pilot for preliminary hearings to address frivolous filings. U.S. District Courts and other trial systems use preliminary hearings to ensure efficient operation of the courts. EOIR shall report back to Congress on its efforts not later than 90 days after the enactment of this Act.”